



STATE OF KANSAS

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July 30, 1980

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ATTORNEY GENERAL OPINION NO. 80- 172

Mr. Gary House
Sedan City Attorney
P.O. Box 417
Sedan, Kansas 67361

Re: Cities and Municipalities--Cities of the Third Class--
Oil and Gas Leases

Synopsis: Absent any express statute requiring the city to do so, a city may lease municipally-owned property for the extraction of oil and gas without advertising for and receiving bids therefor. There is no such statute applicable to cities of the third class. Cited herein: K.S.A. 19-110, 19-111, 55-211a, 74-3315, 74-3316, 76-165.

* * *

Dear Mr. House:

In your letter you state that Sedan, a city of the third class, has property surrounding a city lake northeast of the city. The city has granted an oil and gas lease to McCann Drilling, Inc. for this property. You inquire whether the city must advertise for and receive bids before executing such leases.

It is our opinion that there is no such bid requirement. Municipalities are expressly granted the power to lease municipally-owned land for oil and gas extraction in K.S.A. 55-211a:

"The governing body of any municipal corporation, board of park commissioners of any municipal corporation, trustees or directors of any cemetery association or improvement district, directors of any cemetery district, or township board of any

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township, or any other public agency or quasi municipal corporation, owning or having the management and control of any tract of land within the state of Kansas, is hereby authorized and empowered to lease such lands, or any part thereof, for drilling for oil or gas upon such terms as may be agreed upon"

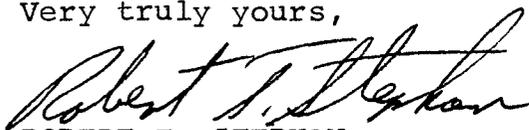
See, also, K.S.A. 12-1654, which authorizes leases by cities of the second and third class on municipally-owned lands outside the city limits. Neither statute makes any mention of any bid requirement.

We note that the legislature has imposed a bid requirement for counties entering into oil and gas lease contracts, in K.S.A. 19-110 and 19-111. There are also bid requirements imposed on the state fish and game commission and the state board of regents by K.S.A. 74-3315 and 74-3316, and 76-165, respectively. But, we are aware of no requirement imposed on cities in general, or on cities of the third class in particular, to advertise for and receive bids before granting oil and gas leases.

In Bunker v. Hutchinson, 74 Kan. 651 (1906), the Kansas Supreme Court declared that "in the absence of an express direction of law to let contracts to the lowest bidder, no letting or competition is necessary." 74 Kan. at 657-658, affirming Yarnold v. City of Lawrence, 15 Kan. 126 (1875). [Both cited with approval in Case-Bros. Co., Inc. v. City of Ottawa, 226 Kan. 648 (1979).] In our judgment, the same principle would be applicable to your question and as to any contracts involving the sale or lease of city property as well. That is, absent any express statutory requirement to let contracts to the highest bidder for oil and gas leases, or for the sale of any city property, the city may proceed to execute such contracts for lease or sale without bid letting or competition therefor. Accord, 64 Am.Jur.2d, Public Works and Contracts, §§34, 36.

Accordingly, it is our opinion that it was not necessary for the City of Sedan to receive bids before entering into the oil and gas lease in question.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Steven Carr
Assistant Attorney General